Remarks/Arguments

Claims 1-13, 15-36, and 38-51 were pending in this application. Within the Office action, claims 1, 4, 5, 17-21, 24, 27, 28, 40-44, 48, 50, and 51 are rejected under 35 U.S.C. § 102(e), and claims 2, 3, 6-13, 15, 16, 22, 23, 25, 26, 29-36, 38, 39, 45-47, and 49 are rejected under 35 U.S.C. § 103(a). By way of the above amendments, claims 1, 24, and 50 have been amended, claim 51 has been canceled, and claims 52 and 53 have been added. Accordingly, claims 1-13, 15-36, 38-50, 52, and 53 are now pending. The Applicants respectfully request reconsideration in light of the amendments made above and the arguments made below.

Rejections under 35 U.S.C. § 102(e)

Within the Office action, claims 1, 4, 5, 17-21, 24, 27, 28, 40-44, 48, 50, and 51 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,020,086 ("Juttner"). The Applicants respectfully traverse these rejections.

Juttner is directed to "practical QoS routing, which provides a solution to the delay constrained least cost routing problem." (Juttner, Abstract) At column 11, lines 38-52, Juttner discloses generating a modified cost function by summing products of multiplicands λi and constraints d_i. Juttner does not disclose modeling negative exponential equations for deriving first and second metrics, as recited in the independent claims 1 and 24.

Within the Office action, in the rejection of previously pending claim 51, it is stated that Juttner, at column 13, lines 50-60, discloses exponential curves. At column 13, lines 50-60, Juttner discusses its Figure 9, which plots average cost versus delay constraints. These plots are of functions that increase, reach a maximum, and then smoothly decrease before steadying off. These plots are not of negative linear exponential functions such as recited in the independent claims of the present invention.

Claim 1 is directed to a method for characterizing a quality of a network path, including a first segment and a second segment. The method includes, in part, modeling negative linear exponential equations for deriving first and second metrics. The first and second metrics are at least in part quality characterizations of a same plurality of one or more network applications. Juttner does not disclose modeling negative linear exponential equations, as recited in claim 1. For at least this reason, claim 1 is allowable over Juttner.

Claims 4, 5, 17-21, 48, and 50 all depend on the allowable claim 1. Accordingly, claims 4, 5, 17-21, 48, and 50 are all also allowable as depending on an allowable base claim. Claim 51 has been canceled, so its rejection is moot.

Claim 24 is directed to a network system. The system includes, in part, a plurality of one or more network devices configured, such that if the network device is coupled to at least a network path including a first segment and a second segment. The plurality of one or more network devices model negative linear exponential equations for deriving first and second metrics. The first and second metrics are at least in part quality characterizations of a same plurality of one or more network applications. As explained above, Juttner does not disclose modeling negative linear exponential equations, as recited in claim 24. For at least this reason, claim 24 is allowable over Juttner.

Claims 27, 28, and 40-44 all depend on the allowable claim 24. Accordingly, claims 27, 28, and 40-44 are all also allowable as depending on an allowable base claim.

The limitation added to claims 1 and 24, "modeling <u>negative linear exponential</u> equations for deriving first and second metrics," (underlining in amendment) is not new matter, finding support in the original application at, for example, page 8, lines 3-4 and 24; and page 11, line 15.

The new claims 52 and 53 are both allowable.

The new claims 52 and 53 both depend on the allowable claim 1. Accordingly, claims 52 and 53 are also both allowable as depending on an allowable base claim.

Not one of the new claims 52 and 53 adds new matter. The new claim 52 finds support in the original application at, for example, page 12, lines 9-25; and the new claim 53 finds support in the original application at, for example, page 18, lines 15-22.

Rejections under 35 U.S.C. § 103(a)

Claims 2, 3, 6-13, 15, 16, 25, 26, 29-36, 38, and 39

Within the Office action, claims 2, 3, 6-13, 15, 16, 25, 26, 29-36, 38, and 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Juttner in view of U.S. Patent No. 6,134,580 ("Hultgren"). The Applicants respectfully traverse these rejections.

Juttner has been characterized above. Hultgren is directed to establishing a network connection between an originating node and a destination node. Hultgren describes determining

an acceptable sequence of links by sending solicitations for bids to intermediate nodes along a network path and then processing the bids. Hultgren does not disclose modeling equations, as recited in claims 1 and 24.

Claims 2, 3, 6-13 15, and 16 all depend on the allowable claim 1 and claims 25, 26, 29-36, 38, and 39 all depend on the allowable claim 24. As explained above, claims 1 and 24 are both allowable. Accordingly, claims 2, 3, 6-13, 15, 16, 25, 26, 29-36, 38, and 39 are all allowable as depending on allowable base claims.

Claims 22, 23, and 45-47

Within the Office action, claims 22, 23, and 45-47 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Juttner in view of U.S. Patent No. 7,002,917 ("Saleh"). The Applicants respectfully traverse these rejections.

Juttner has been characterized above. Saleh is directed to a method of finding a path in a network. Saleh discloses determining minimum-hop and minimum cost paths. Saleh does not disclose modeling equations, as recited in claims 1 and 24.

Claims 22 and 23 both depend on the allowable claim 1 and claims 45-47 all depend on the allowable claim 24. As explained above, claims 1 and 24 are both allowable. Accordingly, claims 22, 23, and 45-47 are all allowable as depending on allowable base claims.

Claim 49

Within the Office action, claim 49 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Juttner in view of U.S. Patent No. 7,085,230 ("Hardy"). The Applicants respectfully traverse this rejection.

Juttner has been characterized above. Hardy is directed to determining a level of performance for a communication service. Hardy does not disclose modeling equations, as recited in claim 1.
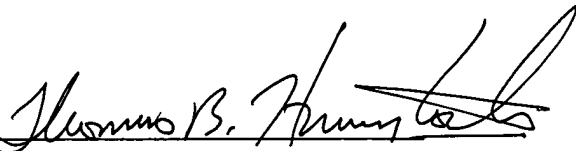
Claim 49 depends on the allowable claim 1. As explained above, claim 1 is allowable. Accordingly, claim 49 is also allowable as depending on an allowable base claim.

CONCLUSION

For the reasons given above, the Applicants respectfully submit that claims 1-13, 15-36, 38-50, 52, and 53 are in condition for allowance, and allowance at an early date would be appreciated. If the Examiner has any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 so that any outstanding issues can be quickly and efficiently resolved.

Respectfully submitted,

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